विद्यालय खोला जाए इसलिए दूसरे स्थान में आसाम में विश्वविद्यालय खोला जाए ।

श्री एल० पी० साहो : मैं जो कह चुका हूं वही दोहराना होगा ।

THE VICE-CHAIRMAN (SHRI JAGESH DESAI) : The question is :

"That the Bill be passed."

The motion was adopted.

I. TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) AMEND- MEND BILL, 1989

II. CHANDIGARH DISTURBED AREAS (AMENDMENT) BILL, 1989

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM) : Sir, I beg to move :

'That the Bill to amend the Terrorist and Disruptive Activities (Prevention) Act, 1987, as passed by the Lok Sabha, be taken into consideration."

[4.00 P.M.]

I also beg to move:

"That the Bill to amend the Chandi- j garh Disturbed Areas Act, 1983, as passed by the Lok Sabha, be taken into consideration."

As the hon. Member-S are aware, the Terrorist and Disruptive Activities (Prevention) Act, 1985, was enacted by Parlia--ment to meet a grave situation in May, 1985. Tt became necessary to enact a comprehensive and deterrent piece of legislation in 1987 and the Terrorist and Disruptive Activities (Prevention) Act was enacted by Parliament. The said Act was enacted .in September, 1987 fo replace the Terrorist and Disruptive Activities (Prevention) Ordinance, 1987, with effect from 24th May 1987. The said Act was enacted to have a life of two years up to 23rd May,

In view of the recommendations of the State Governments and the Union Territories for further extension of the Act and in view of the fact that terrorist violence still continues unabated, it has now been decided to amend section 1(4) of this Act so that the life of the Act is extended for a further period of 2 years with effect from 24th May, 1989. The Lok Sabha has passed the Bill on 10th May, 1989.

As regards the Chandigarh Disturbed Areas (Amendment) Bill, the Amendment which is proposed is a minor amendment by which the words "the Administrator" occurring in section 6 of the parent Act will be substituted by the words "the Central Government. Section 6 deals with sanction for prosecution and other legal proceedings against members belonging to the Armed Forces. The Bill provides that the Central Government shall be the sanctioning authority. Since in section 6 of the Act, as it now stands, the sanctioning authoriiy is the Administrator and it is felt that the sanctioning power should be with the Central Government, it is proposed to bring this Amendment to section 6 of the Act.

Sir, I request the hon. House to take into consideration these two Bills. Sir, I commend the Bills to the hon. House.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI) : There is an amendment by Shri Satya Prakash Malaviya.

SHRI SATYA PRAKASH MALAVIYA (Uttar Pradesh) : Sir, I move ;

"That the Bill to amend the Terrorist and Disruptive Activities (Prevention) Act, 1987, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely :—

1. Shri Mohd. Khaleelur Rahman
2. Shri Chaturanan Mishra
3. Shri V. Gopalsamy
4. Shri Ish Dutt Yadav
5. Shri M. A. Baby •
6. Prof. C. Lakshmanna
7. Shri Kailash Pati Mishra
8. Shrimati Renuka Chowdhury
9. Shri Moturu Hanumantha Rao

10. Shri B. Satyanarayan Reddy
11. Shri Shamim Hashmi
12. Shri Satya Prakash Malaviya

with instructions to report on the first day of next session."

The questions were proposed.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI) : Both the motions and the amendment are now open for discussion.

The time allotted is two hours. I request hon. Members to speak according to the time allotted to their parties. Shri Yashwant Sinha. Twelve minutes.

SHRI YASHWANT SINHA (Bihar) : Sir, it is often that in the heat and dust and perhaps at times in the bitterness of ! debate in this House and outside, we lose i sight of some very important long-term implications of what we are doing today. It appears to me, Sir, that the Amendment Bill which we are discussing today falls in that category. It was, no doubt, passed by Parliament in 1987. I was not in the House then. My being here would have made no difference perhaps as it is not going to make a difference even today. But I consider it my pious and national duty, rising above all party considerations, to caution the Government and the Members present in this House about the sinister long-term implications of a measure of this kind.

[The Vice-Chairman (Shri H. Hamimanthappa in the Chair.]

I do not know if the Government has considered in depth, as reviewed in depth, the functioning of this Act and the ordinance which preceded it in the last two years, because in his introductory remarks the hon. Minister for State for Home has not stated anything about that. But I have no hesitation in saying it today and I would like to say that with all the emphasis at my command and I would like to go on record for (posterity that if ever there was an Act which was a blot on the fair name of democracy, it is this, it is the Terrorist and Disruptive Activities (Prevention) Act of 1987. By this Act we have destroyed completely, perhaps for all times to come, perhap; for the near future, what is known as the rule of Jaw and the tragedy of the situation is that we have destroyed the rule of law by an Act of Parliament. What could be more demeaning, what could be more dangerous and what could be more ridiculous ?

Sir, we will do well to recall on this occasion when the Government has come to this House for extending the life of this Act by another two years, We will do well to recall, some of the pernicious, some of the sinister, provisions of this particular Act. But before I do that, I would like to remind this august House that it was exactly 70 years ago, 70 years and a month ago, on 13th April, 1919, that the Jalianwala Bagh tragedy had taken place, in no other place than Amritsar, and the people who had assembled there were doing what ? They were protesting against the enactment of what is known as the Rowlatt Act, and the real name of this Act was an Act to cope with anarchical and revolutionary trends. This was the name officially given to this Act which came to be known popularly as the Rowlatt Act. And under this Act, I was trying to go through this Act, I am not a lawyer, I do not understand all the implications of law like the Hon. Minister of State for Home does, I was trying to go through it and find out what powers the executive took under this Act. Under the Rowlatt Act the executive took the power to frame somebody, to arraign some, body and they had to report to the Chief Justice of a High Court and the Chief Justice was obliged if he was convinced that there was a *prima facie* case, he was obliged to constitute a three-judge Bench to hear the case and dispose it of. There were other provisions about which I will not take the time of.the House considering that I have got only 12 minutes. That was the provision in the Rowlatt Act against which our countrymen were protesting in Jalianwala Bas'! and hundreds and hundreds of them were killed a-, a re-

suit of the firing which was opened on them by General Dyer. And what did Mahatma Gandhi say ? He said, the British regime wag satanic. This is the word he used. And I would like to quote Rabindra Nath Tagore. He stated : the time has come when badges of honour make our shame glaring. In the incongruous context of humiliation I wish to stand by my countrymen who suffered degradation not fit for human beings. If the Rowlatt Act was not fit human beings, 1 wonder how the TADA is fit for human beings, and we are the human beings of a free country, a democratic country; we are not under the British rule any more. What could be a greater shame for our dsmocracy that in this year of the Lord, 1989, we, this Government, has to come before this House and ask for an extension of this Act, which has already been in force throughout the country, for another two years ? What could be a greater shame than that? What could be a greater blot on the name of democracy ?

Now, Sir, I would like to draw the attention to one or two provisions of this draconian law. It talks of terrorist and disruptive activities, and it talks not only of abetment. It says anyone who commits or abets, advocates, advises or knowingly facilitates the commission. The concept of abetment known in the rule of law has been expanded to cover everything, cover you. me and everybody. This is section 4(1). Then, there is section 5 which deals with possession of certain unauthorised arms etc. What does it further say? This is on page 12. This is something which has Wen commented upon and today I would like to draw the attention of this august House to it once again. It says 'anyone who is guily of possessing illegal arms...'; dynamites, explosives and what have you. It says that the designated court shall presume, unless the contrary is proved, that the accused has committed such an offence. We know how the police functions in this country. Here, I am not going to quote my experience or the experience of my colleagues. I am going to quote what the Governor of Punjab, Shri S. S. Ray, recently said in a Press Conference as to how the police op;rate.

> "Mr. Ray said terrorism has proved handy for the police, not only to hide their inefficiency but also for making a little money on the side.
>
> The police as a matter of routine, had been attriouting almost every heinous crime to the terrorists in the last few years. And once a crime is attributed to terrorists, the police ar; immediately absolve:; of the responsibility to solve it— a good cover-up job for their inefficiency. Ad how do the police profit from terrorism ? Terrori ts usually threaten people in the villages to provide them helter. Later, if and when, these terrorists are caught by the police, they confess to having stayed with such and such farmer in such and such village.
>
> The police loss no time in pi-king up the farmer for 'questioning'. The farmers 'admit' to having harboured terrorists. But the police are not merciless. If the farmers can afford to part with an amount of money, the police don't mind letting them go, he said sarcastically."

This is the police that this Act talks about. This is the police which has been given the power to seize illegal arms. Dr. Subramanian Swamy—though in a different Party now—is sitting here. He will testify —he knows—what sort of cases were built up, what sort of cases were fabricated, during the Emergency by the same police that we talk of. Respected and highly—regarded, well-regarded, leaders were accused of commiting the grossest crimes that one can find in the statute book. This is how the police behave in our democracy and this police has been given the power to accuse somebody with the possession of some illegal arms and it is the responsibility of the accused to prove that he is not guilty. The golden principle of law—I read it somewhere; I am sure, Mr. Chidambaram would be

[Shri Yashwant Sinha]

aware of it—is that a person shall continue to be innocent unless he is proved guilty. This golden principle of law accepted in all the civilised countries has been set aside by this Government in the name of curbing terrorism of which what the results are, are obvious to everyone.

Then, there is another power which you have given to the police. What is that power ? It is, confessions recorded by the police being made admissible under the Evidence Act. Now, any citizen of this country knows the method-s by which the police extort confession. That is why even when the British were making laws in this country they isaid that confession;: before the police officers shall not be admissible a3 evidence. Therefore, there wa3 a provision under which the accused had to ba taken to the court, the magistrate was required to explain everything to him and only then his confessions were treated as admissible evidence.

SHRI P. CHIDAMBARAM : What is the law in England ?

SHRI YASHWANT SINHA : You should tell me. I am not a lawyer. You are.

We have done away with that here. Here, I would like *to* tell you one thing, Mr. Chidambaram. A constable in London ! enjoys far greater credibility than your Director-General of Police here. Do not provoke me to say anything mors.

SHRT P. CHIDAMBARAM: Some of whom are your batch mates.

SHRT YASHWANT SINHA : But that I doe*, not prevent me from telling the truth. I I expect that you will also tell the truth about some of your erstwhile colleagues on the Bar.

Sir there is no commitment trial. The appeal shall lie only to the Supreme Court: The accused can bo identified not through a TT parade but through a photograph. This is the provision in ihe Act. . The accused shall be identified through a , photograph. I am sorry that some of these provisions which are so draconian perhaps escaped the attention of this House when it was passed in 1987, I do not know, but nothing could have been more draconian or dictatorial or nothing could have destroyed rule of law more than this one particular Act. *(Interruptions).* So, this is what it is and I am quoting from the Act:

> "Where a person has been declared a proclaimed offender in a terrorist case, the evidence regarding his identification by witnesses on the basis of his photograph shall have the same value as the evidence in a test identification parade"

I have quoted it from the Act. The point is, we have discussed Punjab. The Minister was very kind to give statistics. We all know what is happening in Punjab and in the rest of the country. This Act is applicable *to* the entire country and not merely to Punjab but everyone knows that it is made primarily for Punjab. And what is happening in the name of maintenance of law and order in Punjab is something which has been brought to the notice of the Government, to the people of this country repeatedly by various civil rights organisations. I have no hesitation in saying with full sense of responsibility in this3 House that today there are no civil right; in Punjab. In the name of curbing terrorism we have destroyed all the principles which are enshrined in our Constitution, It is a shame that 70 years after the Jalianwala' Bash and so many years after our independence we should be passing such a legislation. It is a matter of shame in itself. We have no Gandhi, no Tagore today to protest against such laws.

SHRT SATYA PRAKASH MALAVIYA : Even they would' have been sent in jail under this Act.

SHRT YASHWANT SINHA : T have no' doubt, as Mr. Malaviya said, if there had been a Gandhi or a Tagore, he would have been put behind bar-s under the Terrorist and Disruptive Activities fPrevention) Act.

I shall, therefore, implore with all the humility that 1 can muster that despite the fact that there is very thin attendance in this House when we are diseasing an important subject like this, even in the ruling party which shows its concern or lack of it, the hon. Minister of State for Home Affairs to withdraw this. Let the other laws of the land, the normal laws of the land, take care of the disruptionist activities which are taking place. The normal laws of the land are sufficient, they have proved over a period of time that they are adequate to meet any contingency, any emergency. There is no need for any special laws to deal with disruptive activities or with terrorism. I, therefore, plead, before I end, that the Minister should very kindly withdraw the amendment that he has brought forward and let the Act lapse on the day on which it is due, on the 24th May, 1989. That will be a good deed that the Government would have done, that would have been a good deed which is expected of a democratic government. But it has thrown all democratic norms to the winds, I have nothing to say, I resume my seat, Sir.

SHRI JASWANT SINGH (Rajasthan): It is very kind of you to permit me to speak out of turn, Sir. There are two legislations which we are considering simultaneously. I will first deal with the Chandigarh Disturbed Areas (Amendment) Bill, 1989. If I have understood the reasoning for it correctly, it is a modification which takes away from the Administrator the right to punish members of the armed forces and restore that power to the Central Government.

SHRI P. CHIDAMBARAM : Sanction.

SHRI JASWANT SINGH : Even sanctioning or taking any action against members °f the armed forces. By itself, therefore, I welcome this particular yuece of amendment and I would lend my support to the Chandigarh Disturbed Areas (Amendment) Bill. I will make a distinction. I find it difficult as to why these two are being considered together except for that they both relate, geographically, to an area which is commonly treated as Punjab. I think the issues are different and I personally would find it difficult to club them together.

I have very limited time. I have only four minutes in which to make my submission. I have of that perhaps already used a minute and a half to lend my support to the legislation which is about Chandigarh and the Armed Forces.

When it comes to what is now abbreviatedly called TADA, it 'is a different matter. I was here when this Ordinance was issued. Indeed, if I recollect right, it was on my motion of revocation of this Ordinance that I had occasion to speak when the legislation was enacted. I will not be repetitive. All that I had to say when and now is, I am totally opposing this legislation which my esteemed colleague, Shri Yashwant Sinha, has now repeated. The honourable Minister of State has heard repeatedly from me, as indeed from my other colleagues, what this enactment in its origins was and how, *ab initio,* it was uncceptable to me, as an issue of principle, and it is not now acceptable to me because of its extension. I find that this piece of legislation and its remaining on our Statute Book runs counter to every concept of civilized values which I hold, every concept of civilized and open governance. 1 cannot, therefore, now agree to its extension by two years. I oppose it wholly on grounds which are known to the Minister—which I have stated repeatedly—and for which I don't trunk there is any need or, indeed, any time for me.

The honourable Minister of State himself stated, when he was placing the legislation and, if I remember his words correctly, that "terrorism is unabated in Punjab." It is a sad admission, Sir, and it does not mane me happy that such an explicit admission of the failure to combat terrorism in Punjab ought to have been *made* by the Government. It doesn't delight

[Shri Jaswant Singh]

me that there is such an admission of failure from the Government. It Saddens me. I don't think that the3. answer, therefore, lies in the continued extension of this piece of legislat'ion. If in the past two years we haven't even managed to restrain it, and it runs unabated, I am not convinced that it will now serve the purpose.

Sir, I will conclude by asking for just four clarifications on the issue dealing with Punjab. While asking lor these clarifications I would beg your indulgence, and indeed of the Minister of State it will not be possible for me to stay here, though I would have very much liked to stay here, because I am breaking the queue, therefore I would beg our indulgence. Firstly, we were informed the other day by the honourable Minister of State that the Rajiv-Longowal Accord is the basis within which a solution to the troubled State of Punjab and the troubles -within Punjab is being sought. If I recollect right, in the Rajiv-Longowal Accord is explicit and implicit, a recognition of the Anandpur Sahib Resolution and the consideration of that basis as the AKali Dai's whole philosophy of how they wish to go about. . *(Time-bell rings).....* I will conclude, Sir. So, would the: honourable Minister clarify that if the Rajiv-Longowal Accord is the basis within which you continue to seek resolution of problems in Punjab, then what is the status of the Anandpur Sahib Resolution within that Accord? Secondly, the status of Chandigarh and its future transference was linked, to my understanding of the Accord and its interpretation, with the simultaneous transfer of Abohar and Fazilka. What is the thinking of the Government on that particular aspect? Thirdly, Sir, on the SYL canal, was it not to be completed jointly? If it was to be completed jointly, then, what fault has been found with the Government of Hatyana in this regard?

Finally, Sir, he was being good enough not to refer to it himself, Mr. Yashwant Sinha, who spoke earlier. But I continue to be aggrieved about his arrest in the Union Territory of Chandigarh, th$_e$ manner of his arre?,t, the method of his arrest, the continued silence of the Union Government to respond to the matter of privilege, not just of an individual Member, but of the collectivity of Parliament. Many days have passed. In the Union Territory of Chandigarh the Member was arrested and was kept confined is breach of privilege of Parliament. Why has the Union Government under which the administration of Chandigarh falls, not found it possi'sble to reply to the Chairman about what happened?

Once again thank you very much for permitting me to speak.

I support the Chandigarh aspect of the legislation, and I oppose wholly the Terrorist and Disruptive Activities (Prevention) Amendment Bill, 1989

Thank you.

डा० रत्नाकर पाण्डेय : (उत्तर प्रदेश) : उपसभाध्यक्ष महोदय, इस सदन में गृह राज्य मंत्री, श्री चिदम्बरम जी ने आतंकवादी और विध्वंसकारी क्रियाकलाप (निवारण) एक्टिविटीज, 1987 का संशोधन करने वाले विधेयक को, जिस रूप में वह लोक सभा में पारित हुआ है, विचार करने के लिए रखा है और दूसरा चंडीगढ़ विक्षुब्ध क्षेत्र विधेयक, 1989 भी रखा गया है कि लोक सभा में जिस रूप में यह विधेयक स्वीकार किया गया है, उसी रूप में इस सदन में भी स्वीकार किया जाए । इस पर आपने मुझे बोलने का मौका दिया, आपके प्रति धन्यवाद ज्ञापित करता हूं ।

अभी मैं अपने दो माननीय सदस्यों को बात सुना रहा था । पंजाब में जो व्याप्त आतंकवाद में कमी हुई है, सरकार ने नियंत्रण प्राप्त किया है

लेकिन जलियांवाला बाग का उदाहरण देकर के, रोलट एक्ट की तरह से इसे सिद्ध करना एक उस मनोवृत्ति का परिचायक है, पराधीनता के युग में पराधीनता के युग में जब स्वतंत्रता के दीवानों को जलियांवाला बाग में में कत्ले-आम कर दिया गया और आज भारत का नक्शा अलग करने के लिए जब हमारी स्वतंत्र सरकार ऐसे कदम उठा रही है जिससे आतंकवाद का समूल विनाश हो, उसे रोलट एक्ट का नाम देना, बहुत विवेक की बात नहीं समझता ।

जहां तक पुलिस आतंकवादियों के नाम पर सारे अपराध करती है, यह भी मान्य नहीं हो सकता हमारी पुलिस के लोग हों, हमारे केन्द्रीय बल के लोग हों, अपने प्राणों की आहुति दे कर राष्ट्र के अस्तित्व के लिए और भारत माता से खालिस्तान नाम से पंजाब अलग न हो जाए, उसके लिए अपने प्राणों की कुर्बानी दे रहे हैं । उन कुर्बानियों के प्रति इस सदन के माध्यम से हम अपनी श्रधांजलि अर्पित करते है । जो शहीद हुए हैं, और जो शहीद हुए हैं, वह किसी कारण से शहीद नहीं हुए हैं बल्कि इस मिट्टी के प्रति, अपनी मां के प्रति उनकी ममता है और सबसे बढ़कर उनके लिए भारत माता है । उन भारत माता के सपूतों को हम श्रद्धांजलि देना चाहते हैं।

हमारी पुलिस की बड़ी आलोचना होती है । अमरीका में एक दिन शिकागो शहर में बिजली गुल हुई और 17000 हजार रेप के केसिस हो गए और हमारे यहां हजारों-हजार लोगों पर 10-12 पुलिस के लोग हैं और जिस तरह से हमारी पुलिस और हमारे केन्द्रीय बल के लोग नियन्त्रण करते हैं, वह दुनियां के कम स्वतन्त्र राष्ट्रों के पुलिस बल और केन्द्रिय बल की शक्ति और शौर्य में छुपा हुआ है। आज निश्चित रूप से जब से हमने अमृतसर में जो स्वर्ण मंदिर है उस पर नियंत्रण किया है । उसके बाद से बहुत तेजी से पंजाब की स्थिति में सुधार हुआ है और जब सुधार हो रहा है तो हमारे विरोधी दलों के माननीय सदस्यों को उनकी राष्ट्रीयता पर, उनके राष्ट्र के प्रति समर्पन पर क्यों संदेह होता है ? पंजाब में अगर उनका खून बहा है तो वहां कांग्रेसियों का भी खून बहा है और खून सबका एक होता है । उन सब के प्रति श्रधांजलि अर्पित करते हुए मैं आप से आग्रह करना चाहूंगा कि आप इस बात को समझें कि वहां पर 3 वर्ष के लिए राष्ट्रपति के शासन की अवधि बढ़ाई गई थी जिसके दो वर्ष समाप्त हुए और 6 महीने उसको अभी बढ़ाया है । मैं सदन के माध्यम से विरोधी दलों और सारे देश के लोगों को आश्वासन देना चाहता हूं कि तीन वर्ष में पंजाब में आतंकवाद समाप्त हो जाएगा, आतंकवाद इस धरती से मिटा कर हम छोड़ेंगे । वहां काम करने वाले लोगों की जितनी प्रशंसा की जाए कम है । मैं आप से कहना चाहता हूं कि आलोचना से निर्माण नहीं होते हैं । इसलिए आलोचना हो, लेकिन उसमें संदेह की दृष्टि से देखा जाए, वह उचित नहीं है ।

महोदय, आज आतंकवाद विश्व की समस्या बन गई है । इसके पूर्व कि मैं आतंकवाद के बारे में कहूं, मैं आप के माध्यम से सदन का ध्यान आकर्षित करना चाहता हूं कि आतंकवादियों का दुस्साहस आज घटा है पुलिस और सीमा सुरक्षा बल के अनेक लोगों ने उनका मुकाबला किया है और आतंकवादी घटनाएं कम हुई हैं मौतों की रफतार घटकर आधी हो गई है । सब से महत्वपूर्ण बात यह है कि ग्रामीण आबादी के दोनों समुदायों के लोग चाहे वे सिख हों चाहे हिंदू हों उन लोगों ने खुल कर आतंकवाद का मुकाबला किया है और साहस के साथ आतंकवादियों को पकड़ा है । आतंकवाद का 1985 तक लगभग एक तरफा कार्यवाही का दौर रहा । आतंकवादी बड़ी सरलता से दिन दहाड़े हत्या करके भाग जाते थे और बेरोकटोक जाते थे ताबड़तोड़ हत्याएं हो रहीं थी और तीन साल के बाद की स्थिति आप देखिए कि आतंकवादियों और पुलिस प्रशासन सीमा सुरक्षा बल और प्रशासन के बीच भयानक

[डा० रत्नाकर पाण्डेय]

संघर्ष हुआ है और हमारे जो लोग मारे गए हैं जो निर्दोष लोग मारे गए हैं चाहे वे समाजिक कार्यकर्ता हो चाहे पुलिस के लोग हों उन सब ने बहादुरी से काम किया है और गांव के लोगों का मनोबल ऊंचा हुआ है इसके साथ ही देश की एकता और अखंडता की बात बराबर की जाती है जो आज पंजाब की समस्या पर केन्द्रित हो गई है । आज पंजाब में क्या हो रहा है उसके ऊपर सारी दुनियां देख रही है कि बिजली की गति से इस पर नियंत्रण किया गया है । जहां प्रक्षेपास्त्र मिसाइल्स जैसे भयानक अस्त्र-शस्त्र रहे हों आतंकवादियों के पास वहां हमारी सेना जिस बहादुरी से काम कर रही है हमारे केन्द्रीय बल के लोग काम कर रहे हैं वह बहुत ही महत्वपूर्ण है । एक हद तक आतंकवाद पर जनता को हावी होने में कामयाबी मिली है । इसके उदाहरण मैं आप को डाटा देकर स्पष्ट करना चाहता हूं ।

महोदय 1988 की पहली तिमाही में 552 निर्दोष लोग मारे गए, 44 आतंकवादी मारे गए और 27 पुलिस वाले मारे गए थे लेकिन 1988 की अंतिम तिमाही में 321 निर्दोष लोग मारे गए 106 आतंकवादी मारे गए । और 24 पुलिस के लोग मारे गए, 1989 की पहली तिमाही में 261 निर्दोष लोग मारे गए 133 आतंकवादी मारे गए और 25 पुलिस के नौजवान मारे गए गए । तो निरंतर हम इस क्षेत्र में सफलता प्राप्त कर रहे हैं, और जब सफलता प्राप्त कर रहे हैं तो इस समय पंजाब की स्थिति ऐसी नहीं है कि गमले में जो फूल-पौधा लगाया जाए तो वह बरगद बन जाए । जिस तरह से राजीव गांधी की सरकार ने इस समस्या पर नियंत्रण किया है । वह बहुत महत्वपूर्ण है पंजाब में 12,658 गांव में 7,608 ग्रामीण अमन और विकास समितियां बनाई गयी हैं । 561 गांव में अर्द्धसैनिक व सैनिक होम गार्ड बल से अवकाश प्राप्त लोगों का पुलिस पैकेट बनाया गया है । 400 सौ से अधिक गांव में आत्म-रक्षा के लिए आतंकवाद का मुकाबला करने के लिए हथियार दिये गये हैं इसमें सीमावर्ती क्षेत्र के 75 गांव हैं । आतंकवाद से लड़ने के लिए एक कार्यनीति बनायी गई है इससे दूरगामी और तात्कालिक प्रभाव दिखाई पड़े हैं । इसलिए मैं कहना चाहूंगा कि पंजाब की समस्या पर सारे लोग मिल कर कोई हल निकालें । यह केवल कांग्रेस की समस्या नहीं है यह केवल सरकार की समस्या नहीं है यह केवल जनता पार्टी की समस्या नहीं है यह अन्य विरोधी दलों की समस्या नहीं है यह समस्या सारी मानवता की समस्या है और ऐसी समस्याओं के मूल में आतंकवाद को रोकने के लिए हमारी सरकार ने यूरोपीय आर्थिक समुदाय के देशों का सहयोग लिया है और अभी कुछ ही दिन हुए 26 दिसम्बर को यूरोप के बहुत से लोग आए थे राजनायिक लोग आये थे यहां उन्होंने कमिट किया कि जो आतंकवादी तत्व हैं और जिन्होंने मदद की है चाहे वह लंदन में हों या कहीं और हों उनको किसी न किसी रूप में डिसोसलाइज किया जायेगा उनका मनोबल तोड़ा जायेगा और उनको उचित सजा दी जाएगी । अन्तर्राष्ट्रीय धरातल पर यह समस्या है और इस समस्या का जितने सुन्दर ढंग से समाधान हमारे राजीव गांधी के नेतृत्व में यह मंत्रालय कर रहा है उसकी चतुर्दिक प्रशंसा हो रही है । एक ओर आतंकवादी जहां लड़ने के लिए तैयार है वहीं दूसरी ओर उनके नियंत्रण के लिए हमारे बल के लोग, हमारी पुलिस के लोग सब कुछ अपना सर्वस्व समर्पित कर रहे हैं । अपनी पत्नियों की चूड़ियां तोड़ी जा रही है

मांग का सिंदूर पोंछा जा रहा है, माताओं की गोद खाली हो रही है और दुधमुहें बच्चों के मां बाप नहीं रहे हैं । उनकी प्रशंसा होनी चाहिए, उनकी निंदा नहीं होनी चाहिए । मैं समय के संकोच के कारण यहां विस्तार में न जाकर आपके आदेशानुसार यह कहना चाहूंगा कि जो दोनों विधेयक लाये गए हैं उनका पुरजोर समर्थन विरोधी दल के लोगों को करना चाहिए और सर्वसम्मति से इसे पास करना चाहिए ।

अंत में पंजाब में सुधार हुआ है या नहीं आतंकवाद पर हमने काबू पाया या नहीं अपने शायर दोस्त श्री बेकल उत्साही के शब्दों में चार पंक्तियां पढ़ कर मैं अपना वक्तव्य समाप्त करूंगा और इन दोनों विधेयकों को पुरजोर समर्थन करूंगा ।

यह किसने कह दिया
पंजाब की हालत नहीं सुधरी,
यह किसने कह दिया कि
पस्त हिम्मत देश भक्त की,
यह किसने कह दिया कि
कर्तव्य से गाफिल सुरक्षा है,
यह किसने कह दिया
आतंकवादी कम नहीं होंगे,
यह किसने कह दिया
अब भी खालिस्तान वाले हैं,
अगर कुछ है तो
इसके पीछे पाकिस्तान वाले हैं ।
वही पंजाब जिसमें पहले
कुछ शोले बरसते थे,
वहीं अब जाकर देख आओ कि
हवा ठंडी चलती है ।
मगर अब भी वहां कुछ राख में
चिंगारियां होंगी,
मुहब्बत की ही ताकत से
बुझाने की जरूरत है,
व्यवस्था जो अभी तक थी
वही अब भी जरूरी है ।

हम विश्वास करते हैं कि तीन वर्ष के भीतर हमारी सरकार ने वायदा किया है कि आतंकवाद हमेशा के लिए जिसको सारी दुनियां ने चैलेंज किया है और जो विदेशी ताकतें पंजाब के नाम पर हमारे देश का विभाजन करना चाहती थीं उस चैलेंज को हमारे देश ने स्वीकार किया है और हम विश्वास करते हैं और घोषणा करते हैं अपने दल की ओर से ,अपनी सरकार की ओर से कि तीन वर्षों का समय हमने लिया है इस सदन की माध्यम से और जो विधेयक आ रहे हैं हम उसका समर्थन करते हुए तीन वर्षों में आतंकवाद को जड़ से समाप्त कर देंगे और राजीव गांधी के संकल्प को यह देश पूरा करेगा । इन शब्दों के साथ मैं इन दोनों विधेयकों का समर्थन करता हूं । धन्यवाद ।

SHRI SUKOMAL SEN (West Bengal): Mr. Vice-Chairman, Sir, at the initial stage when the Government came out with the Terrorist and Disruptive Activities (Prevention) Bill for enactment, at that time, we strongly opposed it. Not only we, the entire Opposition opposed it because we considered it a very diabolical law, its provisions most draconian aad its content most anti-democratic and that is why we opposed it. Now, at that time, we wanted to caution the Government that Punjab problem is basically a political one. However stringent a law may be, it does not depend solely on a stringent law. It will not be possible to solve the problem of Punjab and not only this law, police and administration in Punjab, the Government in Punjab and the Central Government have been armed with many more stringent laws but till new the problem of Punjab remains almost as it was. . . So, Sir, what I said earlier that the Punjab problem has to be tackled politically and the Government should take initiative for its political solution, now has proved true. But the Government bas again come out for extension oi this draconian law for another two years. As we did in the past, today also. I very much oppose this Amendment Bill. I want to record my voci-

[Shri Sukomal Sen] ferous protest against the extension of this draconian law for another two years. Sir, at that time, we wanted to caution the Government that there is every possibility that these draconian laws might be misused not only against terrorists but against other innocent people. Now reports are there from Punjab that these laws are being used by the police even against innocent people, to harass them and also to extort money from them: forcibly. There are a number of reports. Not only that, Sir, throughout the democratic movement in the State the workers in Kisan front, the workers in students front, the workers in other mass movement fronts, are being harassed even under the provisions of these laws. So, laws are being rampantly misused in the State. As a result people who would have supported the use of these laws against the terrorists, after seeing that the innocent people are made victims of these laws, they are very much opposed to the provisions of these laws. That is why I again protest against this and I oppose this extension. It is also true that despite a Government which is armed with these draconian laws, the terrorism in Punjab could not be curtailed. The question of wiping out terrorism does not arise at all. Although the Governmet claims that the morale of the terrorists has been broken down, their political links have been severed, all these are fairy tales. It is proved from the fact of daily killings that are taking place 'in Punjab. The terrorists are still holding Punjab to ransom and it is not possible for the Government at this stage to control them in the manner in which they want to do it. Sir. not only that, reports are there even after the restoration of democratic Government in Pakistan after the election of Benazir Bhutto as the Prime Minister, though she wanted that relations between India and Pakistan should be improved and the terrorists' camps in Pakistan should be dismantled, even then reports are there—Perhaps, the Government of Punjab would also agree—that inflow of arms frorn. Pakistan into Punjab continues and even crossing by the terrorists from the Pakistani border into Indian territory is still continuing despite the Government armed with all these laws. So, the Government has failed to contain terrorism in Punjab to. save innocent lives from being sacrificed at the altar of these terrorists. That is why, I feel the Government could not control terrorism. The Governmenl has failed to save innocent lives. I would also like to say that you should tackle the problem politically. Repeatedly we have said that and there is no dearth of laws in the hands of *h« Government to fight the terrorists, to fight the killers, to fight those people who carry illegal arms, to fight those people who smuggle arms into our country, in fact, despite these laws, arms are being smuggled into the country. Despite these laws, terrorism in Punjab is not confined to Punjab only. It has spilled over to Jammu and Kashmir also. Now reports are there that several hundred terrorists have entered from Pakistan into Jammu and Kashmir. Several hundreds more are being trained in Pakistan. Arms are coming from Pakistan into Jammu and Kashmir. It is not only Punjab, but the neighbouring State of Jammu and Kashmir is also affected by terrorism and no laws or Acts which are with the Government are able to protect innocent lives from being sacrificed at the hands of the terrorists. The Government could neither control terrorism in Punjab, nor has it been able to contain terrorism in Jammu and Kashmir. This Is the situation. In this situation, reiterate, the Government should take political initiatives. The other day, the hon. Minister, Mr. Buta Singh, tried to explain the Rajiv-Longowal Accord. He tried to explain that they want to act within the purview, parameters, of the Rajiv-Longowal Accord. Whenever we raised the issue of the Rajiv-Longowal Accord in Parliament they said something about it and forgot

That Accord has really been forgotten by the Government of India. They solely dependent upon the laws and the Acts which are draconian and diabolical in nature. In conclusion, I would only like to say, Sir, that the Government should take the political initiative so that elections may take place and a democratic set-up cornea in Punjab, so that the Government can tackle the situation in Punjab. Otherwise, it is impossible for the Central Government to tackle the situation in Punjab, whatever may be j the Acts and laws they pass in Parliament through their majority. I would again record my strong protest against the extension of this law and I would only suggest to the Government that this draconian law be let te lapse in due course and be not extended any more.

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): Than!;, you, Mr. Vice-Chairman, Sir, I rise to support the Bill. Now, it must be remembered that the pride of india which is also the envy of the rest of the world, is our democracy which is embedded firmly in tbe rule of law. And I think everybody appreciates that a measure like the TADA is clearly, ordinarily, outside the parameters of the lofty democratic principles or the rule of law. The justification for this was mentioned when we passed this measure. And if I may repeat it, this extraordinary meisure is resorted to in extreme situations and it is resorted to, to save demo- ! cracy itself, to protect the rule of law, to save innocent people from being murdered and to prevent the disintegration and preserve the sovereignty of the country. It is in a way like an operation of cancer which nobody likes. But one has to undertake it if there is a cancerous growth in otherwise a healthy body. Even at the best or at the worst of times, no Parliamentarian has his head or heart in a measure such as this one. But if we see really the underlying intention and the objective which is sought to be achieved by this measure, we will find that it is the felt-necessity of time. Now I have been listening to the Opposition. It is very easy. I know that their" role is to oppose and oppose everything and to propose nothing. But on an issue like this, which transcends all regional differences, an issue which is not only a national issue but, as has been expressed on both sides, a humanitarian issue, I find that they have not done anything by way of a positive contribution to solve the problem and I must very ' strongly repudiate this effort and attempt on the part of the Opposition to minimise the efforts which have been made by the Government. The Black Thunder operation has had a very salutary and welcome effect. It has disillusioned a very overwhelming majority of the people of Punjab and alienated them from terrorism. They have realised that places of worship are really meant for worship and they were being defiled by the terrorists.

Well; "terrorism anywhere in the world is very very difficult to combat. With far better equipment, many other countries have not been able to contain it. Look at the IRA in the U.K. Ou_r things are compounded because of several factors which are beyond our control, which my esteemed Members on the opposite side know very well. But sometimes they try to gloss over because, as I said, their business is to oppose the Government and they do not, for example, realise how difficult this problem is. I wish, with a large border like we have with neighbouring countries like Pakistan, it was easy for us to stop the smuggling of arms; it was easy for us to stop the training which is being given to them by the neighbouring countries; and it was easy for us to prevent the smuggling of trained terrorists from across the border. But this is a very serious situation which affords no easy solution. The worst thing about terrorists is, there .'s no way one can identify a terrorist. He can easily get mixed up with the rest of the people in a particular region

[Shri Murlidhar Chandrakant Bhandare]

When two armies are fighting, their uniforms will tell you who is the enemy and who is the friend. But when a terrorist fights, you will not know whether he is A or B or whether h$_e$ is from this village or that village. He just gets mixed up. There is no label by which he can be identified. Well, this is not the occasion for me to go into the question of terrorism, which, at all times, is a very very complicated and a difficult one. But the release of the detenus, the package deal of the Prime Minister, and the very serious effort which the Government is making to see that the panchayat elections are held as early as possible are all efforts to strengthen democracy in the country. I think it is a proud claim and a very justifiable claim of our Government that we hav[6] tried in every situation and in every part of the country to bring[1] democracy back on its rails, particularly in situations which were considered as impossible to resolve like Mizoram, Manipur and Arunachal where insurgency was rampant. We have been able to bring back democracy there and my friends on the other side, who are as much committeed to democracy as I am, will appreciate the great distance we covered between insurgency and democracy. I am quite sure that it will not be long before we have panchayat elections which will have the way for even elections to Parliament taking place along with the elections in the rest of the country. But let me also use this occasion to share my reservation with the Government. I do not think that the accusation, though it may be a little exaggerated, or the allegation or the grievances which have been made against the use of the TADA are totally without justification. Now, the TADA is essentially meant to deal with either a terrorist activity or a disruptive activity. But I find that at the slightest pretext, in situations which ean b$_e$ *controlled* by the normal law machinery, us$_e$ is made of the TADA. I find a very extensive use of the TADA in Gujarat, even in places where there are no communal riots. I am not one who says that communal riots should be controlled by resort to the TADA. And, Sir, it is up to the Home Ministry and the honourable Minister and I think he will give clear directions to the effect that unless it is a case of combating or dealing with any terrorist or disruptive activity, the case will be proceeded with under the ordinary law of the land. I find that even Andhra Pradesh has now enacted a law whereunder a goonda or a smuggler or a bootlegger or a land-grabber or any citizen can be nabed and detained. But these are very very dangerous tendencies. Sometimes the remedy can be worse than the disease and I have risen only to share my reservations on this point. But, as I said, I am quite sure that the things in Punjab will improve. A majority of the people in Punjab are totally alienated from terrorism and whatever may be said, speaking for myself, I am quite confident that the way are going about this problem, the Government is going about this problem there, the situation in Punjab will be brought under control.

Let me • end my speech by only expressing my hope, which only time can prove, that this enactment wil be repealed before go for the next elections. Thank you.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): I have to inform honourable Members that the Minister of Finance will make a statement after this Bill is passed.

SHRI DIPEN GHOSH (West Bengal): At what time?

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): After this Bill is passed.

SHRI DIPEN GHOSH; But when will it be completed? It was announced earlier that it would be made at 5 o'clock.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): There is *only* (me speaker on this now. Don't worry. Yes, Mr. Sesi Bushana Rao.

SHRI YALLA SESI BHUSHANA RAO (Andhra Pradesh): Mr. Vice-Chairman, Sir, it is a sad day today because we are enacting an amendment to the black Act and putting it in the Statute Book of our civilize! democracy.

Though Bhandargji argued, his argument is tenable and he has to argue that way only and there is no other way out for him. This law seriously encroaches upon our criminal jurisdiction, our law relating to evidence and the law of natural justice. Even the Fundamental Rights given to us by th$_e$ founding-fathers of the Constitution were curtailed and they are going to be curtailed now which is not necessary at all and under the ordinary law of the land one can deal with such cases. As my friends have just r.o$_w$ submitted, terrorism cannot be curbed by an Act of Parliament or by the pronouncements of Court's. Terrorism can be curbed only politically. But what "is the Government doing about this? Nobody knows. Just now it was mentioned that elections in Punjab ar$_e$ coming and the General Election is also coming. Instead of going in for draconian laws, we should try to have political consciousness, political movement and a political dialogue. Let ther$_e$ be election in Punjab in a democratic way so that some solution can be found. But let there be no draconian laws as at present. The honourable Minister has come forward with these amendments only for asking for extension of the life of these Acts.

Under this bad law, the principle of natural justice is not there. Even the confession of an accused to a police officer is going to be considered and this is done fo$_r$ the first time under the Indian Evidence Act. Under the Indian Penal Code, there is no provision to say that the accused has to prove the burden of his guilt. This Is something strange. So, a bad law cannot be sustained in a civilized society, in a democracy. So, I request you to rescind this law so that democracy can be maintained in this country. You start a political dialogue with all the Political Parties and try to eradicate terrorism in Punjab. Terrorism can be eliminated only by political means and not with the help of laws 5.00 P.M. alone. Sir, finally, I can submit that even the Supreme Court has also, in their opinion, felt that for very small offences they are applying TADA in some cases. That power is given to Governments. They use the power indiscriminately so that it is not only in Punjab but in other States also innocent people are suffering because of this draconian law.

I once more request the hon. Minister to withdraw this black Act from the Statute Book.

SHRI P. CHIDAMBARAM: Mr. Vice-Chairman, Sir, I am grateful to hon. Members who have participated and made their suggestions. 1 am particularly grateful to Mr. Jaswant Singh who is the only Member to refer to tbe Chandigarh Disturbed Areas (Amendment) Bill, 1989, and for his support to the Bill. I assume that all other hon. Members also support the amendment which I have brought to the Chandigarh Disturbed Areas (Amendment) Bill.

Sir, as regards the Terrorists and Disruptive Activities (Prevention) Amendment Bill, as I said in my opening remarks, the proposal is to extend it for a further period of two years. Mr. Yashwant Sinha asked me whether we have reviewed the working of the Act. Not only have we reviewed the working of the Act but I am bound to point out to him that many State Governments have found that the Act is a useful instrument to control extremist violence, terrorism and aiindless killings by organized group:; oi criminals.

[Shri P. Chidambaram]

In fact, I have with me a statement which shows that 14 State Governments and 2 Union Territories have set up designated courts under this Act, have registered cases under this Act, tried offenders and obtained conviction for several of them. It would not be correct to equate TADA with Punjab. TADA is available to the whole of the country. It is available to all the States, and no State Government has so far told us that TADA is unnecessary or that it should be repealed.

Andhra Pradesh, fo$_r$ example—I begin with Andhra Pradesh only because in the alphabetical order it is the first State—ha$_s$ 46 designated courts the highest for any State in the country. They have registered 840 cases, challaned 268 cases out of which 191 are pending trial and have convicted 19 persons so far.

Gujarat, to which reference was made, has 18 designated Courts.. They hav$_e$ registered 693 cases, challaned 412 cases, out of which 297 are pending trial an,j they have obtained conviction of 15 persons.

"West Bengal which has one designated court, has registered 444 cases. None has been challaned so far, and hence none is pending trial.

Punjab has 4 designated courts. They have registered 6659 cases, challaned 2443, out of which 1930 are pending trial. They have obtained conviction of 41 persons. It is, therefore not correct to say that the State Governments are opposed to this law. Being the Council of States I would have thought that the representatives of States her$_e$ would not espouse a policy which to me appears contrary fo the policy adopted by their respective State Governments in their respective States. I know that TADA is a very strict law. In fact, I would not quarrel with Mr. Yashwant Sinha if he calls it a harsh law. It is a strict law. It has very tight provl* sion?. But the figures before me show that no State Government thinks that it is equivalent to the Rowlatt Act or that it should be repealed. On the contrary, they have found it a useful instrument to fight extremist violence.

Sir, a reference was made to Gujarat by th$_e$ hon. Member, Mr. Bhandare I know that in 1987 there was some criticism that the Government of Gujarat was perhaps overzealous in applying this law. I took note of teh criticism, I went to Ahmedabad and 1 discussed the matter with the Chief Minister and his officers. As a result of those discussions, they reviewed 84 cases arising out of non-communal incidents. In 59 cases they dropped the TADA provisions and this involved 593 persons. I do not believe that after 1987 there is any criticism that the Government of Gujarat misuses or abuses the TADA provisions or is overzealous in applying the TADA provisions. If there are any specific complaints, I am strument to fight extremist violence.

Sir, the hon. Member, Shri Yashwant Sinha, compared this Act to th$_e$ Row latt Act. Harsher words wer$_e$ spoken tw$_0$ years ago. So, i do not take exception to the words that he has uttered. But unfortunately he has missed the thrust of the Rowlatt Act. The only comparison t$_0$ the Rowlatt Act was an Act passed between 1977 and 1979 to set unfortunately he has missed the thrust up Special Courts to try what' were described as "emergency offences." The thrust of the Rowlatt Act is not to create a new offence. The thrust of the Rowlatt Act is so-called speedy trial. The Schedule to the Rowlatt Act merely picked out Indian Penal Code offences—121, 121A, 122, 123, 124, 131, and 132—sedition, waging war and reiated offences. Some other offences were against public order and public servants—124A, 148, 153A, etc. etc-—* offences under the Explosive Substances; Act and offences under Section 20 ofr' the Indain Arms Act. The Rowlatt Act states that these offences which would[1]

otherwise be tried by the normal courts would be given a speedy trial in the Special courts. The only Act that i know of and which compares to the Rowlatt Act is the Act which the Janata Government passed between 1977 and 1979 picking out normal offences and trying them in a Special Court under the pretext of speedy trial which was pronounced by a Judge of the Supreme Court as "perilously close to being unconstitutional". The Act was not struck down on the sole ground that the Attorney General of India who appeared on behalf of the Government of the day, made two vital concessions and, therefore, that was saved. The Judge said that it is "perilously close to being unconstitutional". We are not doing any such thing. We have created two new offences. These two new offences are contained in section 3 which describes terrorist act and section, -1 which describes and defines a disruptive activity. These are the two new offences which have been created where the ingredients are different from the ingredients of other offences of the indian penal Code or any other law. It is to try these two very grave, very heinous, offences which affect the unity, integrity and solidarity of India that this Act is being passed. With great respect to the hon. Member, Mr. Yashwant Sinha,] do not think that the comparison with the Rowlatt Act is correct or proper.

SHRl YASHWANT SINHA. May I just point out to the hon. Minister that I did not compare the Rowlatt Act with this TADA? I said it is much worse than the Rowlatt Act. This is what I said. I have not compared it. I said that it is much worse far more harsh.

SHRI P. CHIDAMBARAM: There is a proverb in Tamil which says that even after you fall down in the dust you say that no dust has struck to your moustache. Sir, be compared it with the Rowlatt Act and he says now it′ is worse than the Rowlatt Act. My answer is if his comparison was bad, his explanation is worse.

Last year there was criticism about section 15 and section 21. (Mr. Jaswant Singh has, of course, explained why-he cannot be here). But I must say that I have accepted every suggestion that Mr. Jaswant Singh made last year. Kindly go back to the debase last year, I told Mr. Jaswant Singh, I accept his suggestions and that when 1 make the rules i will ensure that these safeguards, are incorporated. Now section 15 provides for confession to a police officer. It is not an unusual provision. It seems unusual today i:. the Indian context. Every other country in the world, including England which gave us the colonial laws, has provisions where confession to a police officer is admissible. In India confession to a police officer is inadmissible But that I think is a slur on the Indian Police Service, is a slur on the Indian Police, a slur which first came during the colonial regime and it is time to wipe that slur. And what have we done? Taking note of the criticism year before last, while we made rule 15, we made elaborate provisions which will safeguard any accused person and I wish to read rule 15, because by reading section .1.5. without rule 15, th© impression that will go round is that the confession even to a constatile is admissible. Let me read rule 15; Recording of confession made to a police officer, A confession made by a person before a police officer and recorded by'such police officer under section 15 shall....

SHRI SUBRAMANIAN SWAMY • (Uttar Pradesh); It is not admissible under the U.S. law.

SHRi P. CHIDAMBARAM: Of course, it is admissible. Of course, it is admissible. *(Interruptions)* Of course. a confession before a police officer is admissible, except that he has to read the statutory warnings to the accused and if after that the accused confesses, the confession to a police officer is admissibe without the presence of a magistrate.

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Sir, he must concede to me on questions of law. I will concede to him on economics.

Sir, I will read now section 15. Notwithstanding anything in the Code or the Indian Evidence Act, but subject to the provisions of this section, a confession, made by a person before a police officer riot lower in rank than a superintendent of police and recorded by such police officer either in writing or in any mechanical device like cassettes tapes or sound records from out of which sounds or images can be reproduced shall be admissible in the trial of such person for an offence under this Act. And the rule made provides further safeguards. A confession made by a person before a police officer who will be not less than an SP and recorded by such police officer under secfTop IS of the Act shall invariably be recorded in the language in which such confession is made and if that is not practicable in the language used by such police officer for official purposes, or in the language of the designated court and it shall form part of the record. The confession so recorded shall be shown read or' Played back to the person concerned and if he does not understand the language in which it was recorded, it shall be interpreted to him in a language which he understands and he shall be at liberty to explain or add to his confession. The confession shall, if it is in writing be signed by the person who makes the confession and by the police officer who shall also certify under his own han^ that such confession was taken in his presence and recorded by him and that the record contains a full and true account of the confession made by the person and the police officer shall make a memorandum at the end of the confession to the following effect;

I have exolained to so and so that he is not bound to make a confession— these are the statutory warnings -that if he does so, any confession that he may make may be used as evidence against him and i believe that this confession was voluntarily made. It was taken in my presence and hearing and was recorded by me and was read over to the person, making it and admitted by him *to* be correct and it contains a full and true account of the statement made by him. Signed Police Officer, again, not less than S.P.

> "Where the confession is recodded in any mechanical device, the memorandum referred to in sub-rule (3) insofar as it is applicable and a declaration made by the person making the confession that the said confession recorded on the mechanical device has been correctly recorded in his presence, .shall also be recodded in the mechanical device at the end of the confession."
> mechanical device at the end of the confession,"

This is again Mr. Jaswant Singh's idea which I accepted. The rule further says :

> "Such confession recorded under the said section 15 shall be sent forthwith to the Chief Metropolitan Magistrate or the Chief .Judicial Magistrate having jurisdctiion over the area in which the confession has been recorded and the said Magistrate shall forward the recorded confession so received to the designated court which may take cognisance of the offence."

If any more safeguards are to be provided, let hon. Members make suggestions. But we have provided many safeguards. I believe we have provided as many safeguards as are possible.

Mr. Yashwant Sinha referred to section 22. What he failed to note was that the identification by a witness through a photograph is only in the case of a proclaimed offender. In the rules made under section 16, we have applied the provisions of section 3(3) (a)

to a proclaimed offender under section 22. A proclaimed offender by definition is a person not available to the polite. He is absconding. He has been proclaimed as an offender. The only way to identify him is through a photograph. There is no way I can identify such a person by having an identification parade. This also has been taken care of both in the Act and in the rules.

I do not think there is anything unusual or novel about the provisions. It might appear novel to some of those who are used to the kind of jurisprudence imposed upon us by the British when, the lndian Penal Code was enacted, I believe in 1860, and the Criminal Procedure Code was enacted in 1862 or so. We have to move with the times. Technology has changed. Our officers are recruited and trained. They are high-ranking officers. I do not believe any IPS officer is less wedden to the rule of law that any other officer of any other service including the IAS. I think these officers have to be trusted to exercise their power fairly, properly and justly. I do not think it is correct to take a big black brush and tar every single officer belonging to the Indian Police Service. These are officers whe have been selected, carefully trained and entrusted with great responsibilities.

SHRI YASHWANT SINHA. They undergo refresher courses.

SHRi P. CHIDAMBARAM: Just as the other officers. IPS officers also go through refresher courses.

Sir, I submit that this Act has been accepted by the States. It is a useful instrument. It once again reaffirms our commitment to the judicial process. It is very difficult to get convictions today, particularly, for terrorist crimes. A group of MPs from Ireland were here. I was talking to them about terrorist crimes in Ireland. I have not seen the law. But one MP, who was a former Minister, told me that in Ireland if the Superintendent of Police goes before a court and testifies orally that, in his opinion X is a person involved in terrorist activity, that person would be tried under the special Act. That is how they have kept the faith in the judicial system-

SHRI YASHWANT SINHA; That is why he became a former Minister.

SHRI P. CHIDAMBARAM: His party is still in power. He has become a former Minister because he is something else today.

SHRI SUBRAMANIAN SWAMY: Here, former Ministers go to the Janata Dal.

SHRI P. CHIDAMBARAM: Discards from here go there as Members.

Sir, what will happen if we do not have a trial? What will happen if we do not get convictions? i do not want to elaborate on this point. If we do not get convictions of terrorists through the judicial system, there is no way you can stop extra-judicial methods. In fact, this was what happened in Bengal a long time ago. This is what happens in some States today. Unless you are able to bring a criminal into the judicial process, try him through the judicial process and convict him under the judicial process even if it be by a stricter law, unless you are able to get convictions through the judicial process, hi this unequal fight between the terrorists on the one hand and the State on the other in which the terrorists choose the time and the place, there is no way to stop extra-judicial methods. I abhor extra-judicial methods. Even when I moved this Bill two years ago K said that this would bring back faith in the judicial process and we could get convictions. In Punjab, we got 41 persons convicted after this Act came into force. This I think is a tremendous achievement. Not enough. But still it is a good achievement. Rather than 41 people being dealt with in a manner which is abhorrent to any civilised system, 41

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people have been convicted under the law and there is an appeal to the Supreme Court, I do not wish to elaborate. There was an animated debate last time and we had explained most of the points. I would earnestly request hon. Members to support this Bill. We have withdrawn several provisions from Punjab. I sincerely hope that a day will come when we will withdraw TADA also. We have withdrawn NSA Section 14A, we have withdrawn restrictions °n foreigners, we have withdrawn Armed Forces (Special powers) Act from 9 out of 12 districts, we have withdrawn 437 sedition cases. 1 hope a day will come when we can withdraw TADA also, but that day is not today. Today we need TADA to control extremists' violence in the country.](humbly request hon. Members to support the Bill.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA); I will first put the Amendment moved by Shri Satya Prakash Malaviya for reference of the Bill to a Select Committee to vote.

The motion was negatived.

THE VICE-CHAIRMAN (SHRl H. HANUMANTHAPPA): Now I will put the motion.

The question is:

"That the Bill to amend the Terrorist and Disruptive Activities (Prevention) Act, 1987 as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRl H. HANUMANTHAPPA); We shall not take up clause-by-clause consideration of the Bill.

Clause 2 *was added to the Bill-*

Clause 1, *the Enacting Formula and the Title were added to the Bill.*

SHRl P. CHIDAMBARAM; Sir, I move.

"That the Bill be passed."

The question was put and the motion was *adopted.*

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA):; Now 1 will put the motion.

The question is:

"That the Bill to amend the Chandigarh Distrubed Areas Act 1.983, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRi K. HANUMANTHAPPA): We shall now take- up clause-by-clause consideration of the Bill.

Clause 2 *was added to the Bill.*

Clause 1, *the Enacting Formula and the Title were added to the Bill.*

SHRl P. CHIDAMBARAM: Sir, 1 move;

"That the Bill be passed."

The question was put and the motion ious adopted.

STATEMENT BY MINISTER

Dearness Allowance to Central Government Employees

THE MINISTER OF STATE TIN THE DEPARTMENT OF EXPENDITURE IN THE MINISTRY OF FINANCE (SHRl B. K. GADHVI); Sir_____

On the basis of- the recommendations of the Fourth Central Pay Commission, as accepted by the Government for Group 'A', 'B', 'C and 'D' of Central Government employees, dearness allowance at revised rates has become due for consideration with effect from 1-1-1989, on the basis of percentage increase in whole numbers